

7:05 p.m. meeting opened. 3rd Floor Conference Room, 36 Bartlet St., Andover.
Present were: Anderson, Jeton, Bevacqua, Ranalli, Brown

Petition No: 3783
Petitioner: Dempsey
Premises Affected: 3 McDonald Circle
Present were: Anderson, Jeton, Bevacqua, Ranalli, Brown

There was a request to withdraw without prejudice. Bevacqua made a motion to allow the withdrawal without prejudice. Brown seconded the motion & the Board voted (5-0) to allow the withdrawal without prejudice.

Petition No: 3780
Petitioner: Fragala
Premises Affected: 8 Alderbrook Road
Present were: Anderson, McDonough, Jeton, Bevacqua, Ranalli, Brown

This is a continued public hearing. Jeton noted that the house was built in 1958 and is now located on a corner lot in SRC. Brown asked when Lavender Hill Lane was built, rendering it a corner lot. Anderson noted that the proposed addition is closer to the lot line than the existing house, as depicted on the plot plan. The proposed setback is 39.1'. The Board waived a site view. McDonough made a motion to close the public hearing. Brown seconded the motion & the Board voted (5-0) to close the hearing. Anderson & Brown suggested it could be done with a special permit because it was lawfully constructed & rendered non-conforming by the construction of Lavender Hill. Jeton cautioned that a special permit means there is no increase in the non-conformity. McDonough questioned if a special permit can be granted after a variance, which was originally granted in Decision No. 1295 for the continued existence of the house when Lavender Hill Lane was built. Anderson suggested a variance is safer with the shape of the corner lot, location of the house on the lot and it being rendered non-conforming by Lavender Hill. Further the existing porch was allowed by variance. Jeton made a motion to grant a variance. McDonough seconded the motion & the Board voted (5-0) to grant a variance. Bevacqua sat off the case. Jeton will write the decision.

Petition No: 3740
Petitioner: Northfield Commons
Premises Affected: 69 North Street, 5 + 7 Webster Street
Participating Members: Anderson, McDonough, Jeton, Ranalli, Brown

Attorney John Smolak gave an overview since the last meeting. They met with DPW & came to a consensus. As a result, the plans were revised based on DPW comments. Conservation Commission will order a peer review of the storm water management. The Planning Division confirmed that the Subdivision Control Standard does not apply to this proposal. Anderson explained that he had communicated with the Conservation Commission regarding what it means to ask for and get a waiver from local and state regulations. Brown asked if the comprehensive permit could waive local, but not state regulations. Anderson confirmed. The Board and Attorney Smolak went over the draft decision, including conditions related to Conservation, buffering between the site and the gun club. Smolak submitted letters from abutters regarding their experience of living near the gun club. Anderson read into the record the gun club's letter, dated 5/8/08 & received 5/20/08, requesting notification to buyers about the gun club. The Board discussed liability issues for the gun club, as well as the negotiations they have had with the applicant since the initial public hearing and mitigation efforts related to noise & safety. There is no agreement to date. Anderson suggested that they continue discussions and

recommended that a condition require that money be dedicated to an indoor range. The outstanding issues are safety and noise.

Smolak informed the Board of their meeting on 4/22/08 with ACT to identify possible conveyance of 57 North Street (.36-acres + house). They offered to sell it for \$150,000, approximately half of the market value. ACT counter-offered \$40,000. The applicants countered with sale at \$150,000 plus additional in-kind work (i.e. demolition & foundation) or to sell it at market rate and donate \$50,000 to ACT. Susan Stott, of ACT, confirmed Smolak's summarization of negotiations. She added that ACT sent a letter dated 4/26/08 with back-up materials & still offers \$50,000. Anderson asked for the acquisition price of #57 North St. Smolak stated it cost \$310,000 and agreed to continue working with ACT. Currently, the water main & easement would cross the property at #57.

Paul Finger, of the Conservation Commission, spoke to the Board about the proximity of wetlands to the project stating that they believe the developer needs help putting together performance criteria in order to preserve & protect the resource areas. He emphasized that the Wetlands Protection Act still remains with Conservation Commission and not the ZBA and that the January 2008 regulations need to be met. There was a State peer review. He recommended not waiving the local by-law, which may affect units 29, 30/31, 32, which are within 50' of the wetlands. The 25' no-disturb zone and 50' buffer zone are local regulations. The State regulations allow construction up to the edge of wetlands. Finger added that they normally require monumentation to demarcate the 25' no disturb zone. Anderson asked Smolak if they could accommodate Conservation Commission. Smolak was uncertain if they could meet the 50' setback, since DPW asked for a bigger road. Como, the project engineer, explained that the road is already constricted with stormwater and utilities, plus the requirement for safe vehicular travel. Smolak informed the Board that the condo association would maintain the lawns, eliminating leaf dumping into wetlands. He added that everything is outside the 25' no-disturb zone except for the wetland crossing for the road. Only the units Finger mentioned are within the 50' zone. Smolak reminded the Board that they could waive the local wetland by law. Brown argued that they have to comply under State regulations. Huntress stated that Finger had previously directed them with a 25' setback, not 50'. Anderson asked if there are any alternatives that can meet Conservation Commission's 50' setback. Finger suggested matching on site conditions by redesigning units to meet the 50' setbacks. The Board discussed alternatives for the four units within the 50' setback. Dave Murray, one of the petitioners, suggested staggering the units. Anderson asked the applicant to work with Conservation Commission on units 29, 30/31 & 32 to accommodate the 50' setback.

Anderson asked for an update from ACT. Susan Stott stated that the ACT Executive Committee & Board would meet to see if they would agree to pay \$50,000 for the lot. Smolak stated that his clients would clear the lot, raze the house and put in a foundation. ACT will then pay them the resale price that they pay to the affordable family (i.e. \$150-160,000). Anderson stated that they would include this agreement in the comprehensive permit. Murray informed the Board that it has to be separate due to the pro forma. Petitioners will need to come back to the ZBA for #57 North Street.

Anderson will edit & distribute the draft decision, then have another meeting to finalize it. Smolak proposed a condition to approval that there is an agreement with ACT including a land use covenant, subject to ACT Board approval (condition34).

The Board continued the hearing to 6/12/08 at 6 p.m. Anderson suggested that Smolak distribute the draft to neighbors for public suggestions.

Anderson outlined what will be covered at the next meeting:

1. Refine request for wetland waiver (no 25' waiver, 50' only for 5 units)
2. Include language that nothing in the comprehensive permit will deprive Conservation Commission from imposing conditions under their authority
3. Decision needs to state that drainage peer review will be conducted under Conservation Commission/State regulations

4. Final plans will be subject to DPW review and conditions
5. ACT land use covenant will be built into the decision
6. Incorporate the three Fire Dept. conditions
7. Consider Brown's suggested changed (Anderson gave a copy to Smolak)

Bevacqua made a motion to adjourn the meeting until 6/12/08 at 6 p.m. (location to be determined). Ranalli seconded the motion & the Board voted (6-0) to adjourn until 6/12/08 at 6 p.m.

The meeting adjourned at 9:20 p.m.